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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,819	09/22/2003	Russell D. Wilfert	H0005158	1949

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/668,819

Applicant(s)

WILFERT, RUSSELL D.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "coupled" feature set forth in claims 2 and 12, and the subject matter set forth in claim 9, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

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corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Applicant argues at page 10 of the response filed February 17, 2005 Rule 1.81 discounts the need to show the subject matter of claim 9. The examiner disagrees and notes section "(c)" of the noted rule. Applicant further argues at page 10 of the response the term "coupled" is so broad as to already be shown in the drawings. The examiner can not agree, and attaches hereto a dictionary definition of "coupled". Clearly, two items must be connected together to be coupled, as the term is used in the context of the instant invention.

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "coupled" language set forth in claims 2 and 12, and subject matter set forth in claims 8 and 16, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

Applicant argues at page 9 of the response the meaning of "coupled" can be found in Fig. 6 and paragraph 0023. The examiner disagrees and notes no connection between the claimed

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elements is discussed at either location. Applicant argues at pages 9-10 of the response paragraphs 0021 and 0023 discloses the subject matter of claims 8 and 16. The examiner can not agree. Paragraphs 0021 and 0023 have again been reviewed but no biasing attributed to the seal 406 per se is either disclosed or evident.

3. Claims 1, 2, 4-12, 14-17, 19 and 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 1 recites a "segment seal" (106) and a "sealed vent region" (418). The claim further recites the vent region has a "cross sectional area that is less than the defined cross sectional flow area." Claims 11 and 17 recite similar subject matter. Implementation of this subject matter is neither taught by the instant disclosure nor evident to the examiner. The defined cross-sectional flow area (210) being significantly larger than the vent region area (208) would preclude any "net force" acting on the segment seal assembly 106 toward the outlet (110), as discussed at paragraph 0022, lines 12-16 of the specification. Furthermore, there would not appear to be any

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reduction in "differential pressure load across the segment seal assembly 106" as discussed at paragraph 0026, lines 1-3 of the specification. Rather, the pressure differential would appear to be increased. The Stark reference is cited for disclosure concerning accepted fundamental operation of plug valve having pressure assisted sealing. Note the paragraph bridging both columns on page 2 of Stark.

Applicant argues at pages 11-12 of the response "[c]laimed subject matter is enabled if any person skilled in the art can, based on the disclosure, make and use the invention without undue experimentation." The examiner agrees, and submits one could not use the claimed invention since the segment seal 106 would necessarily be biased away from the seat of the valve body 102 allowing fluid flow therepast. The examiner is unaware of how one skilled in the art would use an intentionally leaking valve. Furthermore, no prior art was uncovered which teaches one how to use an intentionally leaking valve. Applicant argues at page 12 of the response the pressure of fluid leaking around the plug 104 would "push the segment seal main body (402) toward the outlet (110)." However, this is not seen to be possible since the segment seal 106 would necessarily be spaced from the outlet 110 due to the acknowledged differential pressure. Applicant further argues at page 12 of the response "the spring

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(416) and/or the seal (406) also supply a force that acts to push the segment seal main body (402) toward the outlet (110)." However, the examiner has again reviewed the specification, but finds no discussion in support of this argument (nor has any evidence been submitted). In fact, the specification states it is preferable to omit the spring, and indeed, none of claims 1, 11 or 17 recite a spring.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 and 5-16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Melichar.

The Melichar reference discloses a valve assembly comprising: a valve body 1 including openings (inlets and

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outlets) 8; a plug 12 including a flow passage 20; a segment seal assembly including a body 24 having an opening 25, a seal gland (receiving 28), a seal 28, and a vent region 26; a backup ring 29; a spring 31; a bearing assembly 6; and engagement sections 15, as claimed. Re claims 1 and 10, any one of the openings 8 would appear to meet the structure defined by the term "outlet". Re claims 1 and 11, the cross-sectional areas of the body inlet/outlet and vent region in the Melichar valve assembly are balanced to enable use of minimum spring bias (col. 4 lns. 20-25). To reduce the cross-sectional area of the vent region would have been obvious in order to enable use of a stronger spring.

6. Claims 4 and 17-20, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Melichar and Brown.

The Melichar valve assembly further comprises an actuator assembly 39.

Although the actuator assembly of the Melichar valve assembly may not receive control signals (automated), as claimed, attention is directed to the Brown reference which discloses an analogous valve assembly which further includes an automated actuator assembly (col. 2 lns. 39-44). Therefore, in consideration of Brown, it would have been obvious to one of ordinary skill in the art to associate control signal operation



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with the Melichar valve assembly in order to facilitate use in remote locations.

Applicant has not separately argued this subject matter.

7. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.

8. The grounds of rejection have been reconsidered in light of applicant's arguments, but are still deemed to be proper.

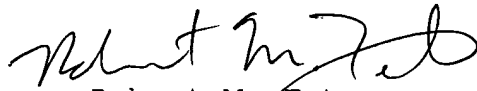
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

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10. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", written in a cursive style.

Robert M. Fetsuga  
Primary Examiner  
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